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SUBJECT: LEGISLATURE SENDS ELECTORAL REFORM AMENDMENTS TO EXECUTIVE  
MANSION

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1. (SBU) SUMMARY. The National Legislature has passed a constitutional amendment law that sets in motion reforms needed before the 2011 elections. The "Electoral Reform Law" was drafted with input from the law reform commission and civil society. It seeks to amend sections of the Liberian constitution relevant to the holding of free and fair elections in a national referendum. The measure retains the controversial ten-year residency clause for presidential candidates, reduces the presidential term of office from six to five years, calls for the election of mayors rather than their presidential appointment, affects the formation of political parties, moves election day from October to November, and mandates that all electoral contests except the presidential and vice presidential be won by a simple majority. Retention of the ten-year residency clause could affect a possible re-election run by President Sirleaf and result in a Supreme Court challenge. If signed by the President, the recommended constitutional changes require popular approval in a national referendum. END SUMMARY.

THE ROOT OF IT ALL  
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2. (U) President Sirleaf established a law reform commission in June 2009 composed of civil society organizations, political parties and other stakeholders. This body was charged with completing a comprehensive review of the existing constitution and legal framework and charged with suggesting reforms. The group advised the Legislature on the drafting of an electoral reform bill. While a general constitutional review continues, the proposed electoral reforms result from a priority focus on enacting changes needed to ensure a successful general election in 2011.

3. (U) The resulting "Electoral Reform Law" was approved by the Senate in a September 28 voice vote, following passage by the House of Representatives on September 22. If the measure is signed by President Sirleaf, its recommendations will need approval in a national referendum, which shall take place and come into effect not sooner than one year after the Legislature passes any constitutional amendment law (i.e. fall 2010).

PRESIDENT/VICE PRESIDENT AFFECTED  
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4. (SBU) Amendment of Article 50 of the constitution seeks to reduce the presidential term from six years to five, while maintaining a two term limit. Article 52(c) is modified to read, "No person shall be eligible to hold the office of President or Vice President, unless that person is domiciled in the Republic for ten years immediately prior to his election." This could scupper a re-election bid by President Sirleaf or any other contender who fled during the civil war. If the amendment is approved, the Supreme Court will almost certainly end up being asked to decide whether or not "domiciled" means physically present in-country.

ELECTED MAYORS  
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5. (U) The bill further recommends the amending of Article 56(b) to

allow for the local election of mayors, in addition to the already elected paramount, clan and town chiefs. Mayors are currently appointed by the President and can only be removed by presidential action. This amendment, which devolves more power to the local level and is called for in the 2003 Comprehensive Peace Agreement, also empowers local councils to remove elected mayors. It represents a positive step toward decentralization and the enhancement of local institutions.

#### POLITICAL PARTY FORMATION RULES TIGHTENED

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¶6. (U) At present, political party formation in Liberia is relatively easy. Article 78 of the constitution allows a party to be formed with "five hundred qualified voters in each of at least six counties." The bill amends the constitution to require a new political party seeking registration with the National Elections Commission to "have 10,000 qualified voters in at least ten counties." This measure would cut the high number of political parties that exist as vehicles for a particular personality rather than as a coalition of like-minded individuals.

#### ELECTION DAY MOVED TO DRY SEASON

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¶7. (U) The amending of Article 83(a) of the constitution would move Liberia's election day from the second Tuesday in October to the first Tuesday in November of an election year. Roads in rural Liberia are usually impassable in October due to rain. This makes transport of election supplies difficult and also results in lower voter turnout. The transition of power will continue to take place the January following the elections.

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#### FEWER RUNOFFS, MORE SAVINGS

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¶8. (U) The final amendment is aimed at cutting election-related costs. Article 83(b) of the constitution says that election of all public officers shall be determined by an absolute majority of the votes cast. If no candidate obtains an absolute majority in the first ballot, a second ballot is mandated with the participation of the two candidates who received the greatest number of votes on the first ballot. The high number of political parties in Liberia results in large numbers of candidates for office, guaranteeing that most winners are decided in a subsequent runoff vote. In the amended article, all electoral contests will be decided by a simple majority of votes cast, except for the presidential and vice presidential races. Election of the president and vice president will continue to require a runoff between the two highest vote-getters if no candidate obtains an absolute majority of votes in first round balloting.

#### SOMETHING'S MISSING

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¶9. (SBU) The most significant item missing from the electoral reform law is the reduction in senatorial terms called for by the law reform commission. The Senate successfully fought off an amendment that would have made all senatorial terms seven years instead of nine years and erased the distinction between senior and junior senators. (NOTE. Only one Senate race is held in each county. Senior senators are the highest vote recipients and will serve a nine year term. Junior senators received the second largest number of votes. The electoral reforms put in place for the 2005 election limited junior senators to seven year terms. END NOTE.)

¶10. (SBU) COMMENT. Most of Liberia's laws are in dire need of reform in a thorough, well-considered review process. We expect the law reform commission to make further recommendations in the coming months. The changes proposed in the Electoral Reform law were pushed out quickly due to the pressing need to have reforms meant to address electoral problems well in advance of the 2011 elections. Most of the amendments, such as the election of mayors, are positive. Sirleaf has not yet reacted to the electoral law. While

she called for many of the changes listed in this bill, the 10-year domicile requirement is likely a move by her opponents in the Legislature to limit her chances of re-election. However, she may be inclined to sign the bill and hope for a favorable interpretation of the meaning of domicile by the Supreme Court. END COMMENT.

ROBINSON